Supreme Court of the United States.

Nos. 140 and 265.—October Term, 1902.

The Board of Directors of the Chicago Theological Seminary, Plaintiff in Error, vs. The People of the State of Illinois ex rel. Samuel B. Raymond, County Treasurer and ex officio Collector of Cook County, Illinois. } In error to the Supreme Court of the State of Illinois.

[February 23, 1903.]

These cases, between the same parties, come here by writs of error to the Supreme Court of Illinois, which held certain property of the plaintiff in error not exempt from taxation. (189 Ill. 439.)

The case No. 140 involves taxes for the year 1899, and No. 265 for the year 1900.

The plaintiff in error claims exemption under its charter passed in 1855, entitled "An act to incorporate the Chicago Theological Seminary," a copy of which is set forth in the margin.*

The Supreme Court of the State held that the provision granting the exemption from taxation in section 5 referred only to property used in connection with the seminary and did not include other property which might be owned, rented or held by the seminary as an investment, although the income thereof was used solely for school purposes. Accordingly property which was not so included and which is involved in these actions was taxed under the general taxing law of the State enacted in 1872. In

*Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That Stephen Peet, (and twenty-three other persons, named in the act,) and their successors be, and they hereby are, created a body politic and corporate, to be styled "The Board of Directors of the Chicago Theological Seminary," and by that name and style to remain and have perpetual succession, with full power, to sue and be sued, plead and be impleaded; to acquire, hold and convey property real and personal; to have and use a common seal; to alter and renew the same at pleasure: to make and alter a constitution and by-laws for the conducting and government of said institution, and fully to do whatever may be necessary to carry out the object of this act of incorporation.

Sec. 2. That the seminary shall be located in or near the city of Chicago. The object shall be to furnish instruction and the means of education to young men preparing for the gospel ministry, and the institution shall be equally open to all denominations of Christians for this purpose.

Sec. 3. That the board of directors shall consist of twenty-four members, nine of whom shall constitute a quorum, for the transaction of business. The directors shall hereafter be elected in accordance with the provisions of the constitution

enforcing the taxation of the outside property of plaintiff in error under that act, it is claimed that the obligation of the contract contained in the act of 1855, the charter of the plaintiff in error, was impaired

It is conceded that the charter of incorporation was duly accepted, and that acting on the faith of its provision the plaintiff in error has acquired by donation and purchase a part of the real estate on which the taxes in question were levied, and in addition has expended in the erection and purchase of buildings on the real estate owned by it an amount exceeding $200,000, and a large number of students have been and are being instructed by it in pursuance of its charter. The pieces of real estate upon which the taxes in these cases were levied were acquired by the plaintiff in error by gift or purchase, and were held by it to promote the objects for which it was incorporated, and the rentals received from such real estate are used for those purposes, although the property is not used in immediate connection with the seminary.

Mr. Justice PECKHAM, after making the foregoing statement of facts, delivered the opinion of the Court.

The Supreme Court of Illinois, by its decision in this case, has but followed its prior decision upon the same question between these parties, reported in 174 Ill. 177, decided in 1898. It there held that the exemption was limited to property used in immediate connection with the seminary, and did not include such property as is involved in these cases, which was not property used in immediate connection with the seminary, but was other property separate and apart therefrom, and owned or rented or held by the seminary as an investment, the income from which was nevertheless used solely for school purposes.

The rule of construction followed by the Supreme Court of Illinois in construing this act exempting property from taxation is so well estab-

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under which they act, and shall hold their office until their successors are appointed.

SEC. 4. The board of directors shall have power to appoint an executive committee and such agents as they may deem necessary, and such officers, professors and teachers as the government and instruction of the seminary may require, and prescribe their duties, to remove any of them for sufficient reasons, and prescribe and direct the course of studies to be pursued in the institution; also to confer such degrees as are consistent with the object of the institution.

SEC. 5. That the property, of whatever kind or description, belonging or appertaining to said seminary, shall be forever free and exempt from all taxation for all purposes whatsoever.

SEC. 6. This act to take effect and be in force from and after its passage, and it shall be deemed a public act, and shall be construed liberally in all courts for the purposes therein expressed.

lished by this and other courts as scarcely to need the citation of authorities. One or two, however, from this court may be given. (*Tucker* v. *Ferguson*, 22 Wall. 527; *New Orleans City & Lake Railroad* v. *New Orleans*, 143 U. S. 192, 195; *Bank of Commerce* v. *Tennessee*, 161 Id. 134, 146.)

The rule is that, in claims for exemption from taxation under legislative authority, the exemption must be plainly and unmistakably granted; it cannot exist by implication only; a doubt is fatal to the claim.

The reasoning of the Supreme Court of Illinois, (174 Ill. *supra*,) in refusing the exemption claimed, so far as relates to the property not connected with the seminary, is best stated in the language of the opinion of that court. After stating the rule of construction, as above mentioned, the court said (p. 181):

"If, however, taking the express words of the act, and without extending their meaning by implication, they may be held to include all property belonging or appertaining to the 'seminary' mentioned in the second section, or to include all the property belonging or appertaining to the corporation, and there is reasonable ground for doubt which was intended by the legislature, that doubt must be resolved in favor of the State. In other words, if the language is capable of a broad or more restricted meaning, the latter must be adopted. The second section of the charter mentioning certain property to be located in or near the city of Chicago, and which is denominated 'the seminary,' we think the words in the fifth section, 'said seminary,' refer to that particular property, and to so hold seems to do no more than to give the language of the two sections their literal and ordinarily understood meaning. To say, as is contended by appellee, that 'said seminary' was intended to mean the corporation is to extend the meaning of those words by implication, which is not permissible.

"It is said that the only entity mentioned in the charter capable of owning property is the corporation, and therefore it could not have been intended that property belonging or appertaining to the seminary was meant by section 5. We think this position is based upon a too limited meaning of the words 'belonging or appertaining,' as here used. Of course, if the language of section 5 had been that the property, of whatever kind or description, *owned* by the said seminary shall be forever free from all taxation, &c., or if, as counsel seem to assume, the words 'belonging or appertaining' here necessarily meant ownership of the property, then there would be force in this argument of counsel. It is undoubtedly true that the word 'belonging' may mean ownership, and very often does. But that is not its only meaning. Webster's International Dictionary defines it: '2. That which is connected with a principal or greater thing; an appendage, an appurtenance.' He also defines the word 'pertain' as meaning 'to belong to, to pertain, whether by right of nature, appointment or custom; to relate, as things pertaining to life.' Manifestly, the purpose of section 5 was to exempt property owned by the corporation, but it does not follow that the intention was to include in that exemption all property owned by it used for purposes of the school."

We think there is force in this reasoning, and we are disposed to concur in the result arrived at.

It is contended by counsel for plaintiff in error that the words "said seminary," contained in section 5 of the charter, referred to the corporation created by the act and not to the school buildings and grounds, and that, therefore, the exemption necessarily exempted from taxation all the property against which the judgments below were rendered.

Here are two different constructions of the exemption clause, each of which might be maintained with some plausibility. That view which limits the range of the exemption to property used in immediate connection with the seminary might seem to many to be the correct one, while in the opinion of others, the broader claim of total exemption would be the best founded. The judges of the Supreme Court of Illinois have unanimously taken the former view, while counsel for the plaintiff in error very strongly and very ably has taken and maintained the other. We can ourselves see that a construction either way would not be clearly erroneous, or, at any rate, either construction would not be so obviously erroneous as to leave no doubt upon the question. In such cases we think the rule as to the construction of statutes of exemption from taxation should be applied, and as there may be room for reasonable doubt whether a total or only a partial exemption was meant, the partial exemption should alone be recognized. Great weight ought also to be attached to the decision of a State court regarding questions of taxation or exemption therefrom under the constitution or laws of its own State. As is said in *Wilson* v. *Standefer*, (184 U. S. 399, 412:)

"Especial respect should be had to such decisions when the dispute arises out of general laws of a State, regulating its exercise of the taxing power, or relating to the State's disposition of its public lands. In such cases it is frequently necessary to recur to the history and situation of the country in order to ascertain the reason as well as the meaning of the laws, and knowledge of such particulars will most likely be found in the tribunals whose special function is to expound and interpret the State enactments."

We acknowledge and affirm the principle that this court in this class of cases must decide upon its own responsibility as to the existence and meaning of the contract, but in arriving at such meaning in a case like this, the decision of the State court is entitled to exercise marked influence upon the question this court is called upon to decide, and where it cannot be said that the decision is in itself unreasonable or in violation of the plain language of the statute, we ought, in cases engendering a fair doubt, to follow the State court in its interpretation of the statutes of its own State.

The case of *University* v. *People*, (99 U. S. 309,) is no authority for the construction contended for by the plaintiff in error. In that case the charter provided "That all property, of whatever kind or description,

belonging to or owned by the said corporation, shall be forever free from taxation for any and all purposes." The difference between the two provisions is intrinsic and material. What is lacking in the case at bar is present in the case cited, namely, a provision exempting all the property "owned by said corporation." In the case before us it is the property "belonging or appertaining to said seminary," and the word "belonging" is construed by the Supreme Court as not synonymous with "owned by," nor is the word "seminary" regarded in this connection as the equivalent of the word "corporation."

But the plaintiff in error contends that however correct the construction adopted by the State courts might be if founded upon general rules of construction pertaining to claims for exemption from taxation, it is plainly erroneous under the provision of section 6 of the charter, providing that the act "shall be deemed a public act, and shall be construed liberally in all courts for the purposes therein expressed."

To adopt the construction contended for by the plaintiff in error would call for a reversal of the rules otherwise prevailing in and governing claims for exemption from taxation. But it is nevertheless urged that if in any way the language of exemption can by a liberal construction be said to cover the whole property owned by the corporation, such construction must be adopted by reason of the provisions contained in section 6. We think this is claiming entirely too much for the language of that section.

As is therein stated, the act must be construed liberally for the purposes therein expressed. What are those purposes? In this respect the word "purposes" in section 6 is synonymous with the word "object" in section 2, as we think, and we find that the object or purpose is stated in section 2, "To furnish instruction and the means of education to young men preparing for the gospel ministry, and the institution shall be equally open to all denominations of Christians for this purpose." It is for the accomplishment of this purpose or object that the act is to be liberally construed. If a question should arise regarding the meaning of the language "to furnish instruction or the means of education," and how far the words should be extended and what they should include, the words should be liberally construed as provided for in the sixth section, because to furnish instruction or the means of education is the expressed purpose or object of the act. So in regard to the powers of the board of directors as provided for in the charter; those powers should be liberally construed for the furtherance of the object stated in the charter. To do so would not violate any well-settled rule of construction and would nevertheless be sufficient in case of doubt to turn the decision in favor of a construction more liberal in its nature than might otherwise be properly adopted. But we do not think it was intended by the language of the sixth section to provide a complete overthrow of a canon of construction such as the

one in question, which has obtained for so many years and has been so universally and so strictly adopted and adhered to by the courts of the whole country. We again resort to the language of the opinion of the Illinois court for the presentation of its own reasons for the somewhat strict construction of the exemption clause adopted by it. After stating that it should not be presumed that the legislature intended to exempt property from taxation, but such intention must appear affirmatively, and it will be strictly construed, and that any ambiguities must operate against the parties who claim the exemption, the court (p. 181) continued:

"That laws exempting property from taxation are generally subject to these rules of construction is not seriously questioned, but counsel for appellee say said rules do not apply here, because by section 6 of the charter it is provided that the act 'shall be construed liberally in all courts for the purposes therein expressed.' We do not think this language was intended to or could be held to change or qualify the general rules of construction applicable to the section under consideration. Here the very question to be determined is, what is the purpose expressed in that section? And to say that liberal rules of construction must, under section 6, be applied in favor of the contention that all property belonging or appertaining to the corporation is exempt would be to beg the whole question. In determining what purpose is expressed in the section, resort must necessarily be had to the general rules for considering such laws. When that purpose is ascertained, liberal rules of construction, if necessary, are to be resorted to, to give effect to such purpose. . . . We think this case turns upon whether or not the words 'said seminary,' used in the fifth clause, should be given the meaning of 'said corporation.' In our opinion the application of the rules of construction above referred to do not warrant such a construction."

This is not such an unnatural, strained or unreasonable construction of the act as shows it to be erroneous, and while it might be otherwise construed so as to effect a total exemption, we are not prepared to hold that the State court so clearly erred as to call upon us to reverse its determination. We, therefore, adopt, though we admit with some hesitation, the views of the State court, which lead to an affirmance of the judgments.

Affirmed.

True copy.

Test:

Clerk Supreme Court, U. S.

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Supreme Court of the United States.

Nos. 140 and 265.—October Term, 1902.

The Board of Directors of The Chicago Theological Seminary, Plaintiff in Error,
vs.
The People of the State of Illinois ex rel. Samuel B. Raymond, County Treasurer and ex officio Collector of Cook County, Illinois.

In error to the Supreme Court of the State of Illinois.

[February 23, 1903.]

Mr. Justice White, with whom concurs Mr. Justice Brown and Mr. Justice Holmes, dissenting.

The court, in stating the facts, refers to a previous opinion of the Supreme Court of the State of Illinois, announced in a case between the same parties, involving a question of law like unto that which arises on this record. In that case, however, the Supreme Court of Illinois but reversed and remanded, ~~not~~ for a new trial, and hence the judgment was not final and susceptible of being brought to this court to test the issues involing the constitutional right under the contract. After the record in the previous case reached the trial court the case was not further pressed by the plaintiff for such length of time as to cause it, under the Illinois statute, to be in effect abandoned. The question here now for review is not, therefore, controlled by the thing adjudged arising from the previous judgment. The court does not now decide to the contrary, but the matter is referred to by me lest a misconception be caused by the mention made of the subject in the opinion of the court.

I do not dispute the elementary proposition that exemptions from taxation are *stricti juris*, that is, not to be extended by implication. This, however, does not imply that a contract exemption is to be disregarded, simply because it may be possible for a subtle mind to suggest a possible doubt as to the exemption, however conjectural may be the assumption on which the doubt is rested. Nor does the rule mean that, because it is deemed that a particular contract exemption was an unwise one for the public interest, therefore the meaning of the contract is to be disregarded by a court in order to relieve the public from the burdens arising from the obligations of the contract. The rule, as understood by me, is this only, that the language from which an exemption is claimed to arise is to receive a literal construction, and is not to be extended so as to embrace a right not within the clear meaning of the contract. I do not, moreover,

dispute the principle that where the contract which is asserted to have been impaired arises from a State law, it is the duty of the court, in case of doubt as to the meaning of the contract, to adopt the construction given to it by the State court. This rule does not imply that because the State court has decided against the contract right, therefore there is doubt and, hence, the resulting duty to affirm the action of the State court. If such were the case, the power of this court to review the action of State courts concerning the alleged impairing of the obligations of a contract would be at an end wherever the contract took its origin in State law. The significance of the rule is this, that if, fairly considering the issue of contract arising from the State law and its alleged impairment, this court, in the exercise of its independent judgment, remains in doubt, the decision below construing the State law will be allowed to solve the doubt, and thus secure the affirmance of the judgment. The obligation on me as a member of the court is identical with that which rests on the court.

Coming to apply these rules to the case in hand, my mind has no doubt whatever as to the true meaning of the contract. Let me state what the contract is, in order to show why I do not doubt on the subject.

The first section of the act from which the contract arises creates a corporation for a religious and benevolent purpose, under the name of "The Board of Directors of the Chicago Theological Seminary." The second section provides as follows:

"That the seminary shall be located at or near the city of Chicago. The object shall be to furnish instruction and the means of education to young men preparing for the gospel ministry, and the institution shall be equally open to all denominations of Christians for this purpose."

The third section provides for the board of directors; the fourth relates to the powers of the board; and the fifth is as follows:

"That the property, of whatever kind or description, belonging or appertaining to said seminary, shall be forever free and exempt from all taxation for all purposes whatsoever."

The sixth section provides when the act shall take effect, and declares that it "shall be construed liberally in all courts for the purposes therein expressed." Does the exemption covered by the fifth section relate to the Theological Seminary, the corporation created by the act, or does it apply only to a building to be erected by the corporation? is the question at issue.

It is admitted that if the exemption applies to the Theological Seminary, the contract has been impaired and the judgment should be reversed. It is now decided that the exemption relates only to the seminary, that is, to the buildings, and, therefore, the judgment is affirmed. Now, giving to the words of exemption their natural meaning, and construing them strictly, there does not seem to me to be a doubt that they relate to the Theological Seminary incorporated by the act, and referred to as such in

its first section. My mind does not enable me to see what else the words can mean. If it was intended merely to exempt a building or buildings, language could have been employed which would have aptly conveyed such meaning. Instead of doing this, the language used in the act—as I understand it—excludes such construction, since it declares that the exemption shall relate to the property "belonging or appertaining to said seminary;" the word "belonging" clearly referring to the corporation created by the act and on whom was conferred the power to own and possess property. Emphasis is added to this view when the scope of the exemption is borne in mind; since it embraces not a mere building or its accessories, but the property of whatever kind or description, thus describing and referring to the power to own and acquire property of every kind and description, real or personal, conferred on the Theological Seminary by the act. It is further to be observed, as throwing light upon the subject, that in the fourth section, immediately preceding the grant of the exemption, the particular buildings or place of learning to be constructed by the Theological Seminary is twice referred to as the institution, thus showing that the legislative mind had immediately before it when the exemption was granted the distinction between the Theological Seminary as a corporate entity to which the exemption was granted, and the institution to be constructed and supported by the Theological Seminary. I cannot, moreover, conceive that the words of the statute, immediately following the section granting the exemption, commanding that the provisions of the contract "shall be liberally construed in all courts for the purposes therein expressed," should have what seems to me their plain meaning, disregarded, by causing them to refer, not to the act as a whole, but to some particular provision in it. I find nothing in the language which lends itself to such a view.

I therefore dissent.

I am authorized to say that Mr. Justice BROWN and Mr. Justice HOLMES concur in this dissent.

True copy.

Test:

Clerk Supreme Court, U. S.